

REMARKS

Claims 1, 11, 31, 32, 34, 36-45, and 62-66 are pending in the application. Claims 1, 44, and 45 are withdrawn as being drawn to non-elected inventions. Claims 11, 31, 32, 34, 36-43, and 62-66 are under active consideration.

Claims 11, 36, 39, 42, 43 and 62 have been amended. These amendments further clarify the intended subject matter of the claimed invention. Entry of these amendments is respectfully requested.

Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

Comments Regarding Restriction Requirement

Applicants affirm the election with traverse of Group IIb, which corresponds to claims 11, 31, 32, 34, 36-43, 62, 64, and 66 drawn to antibodies. Applicants thank the Examiner for rejoining the claims of Group IIa with the claims of Group IIb. Thus, the elected invention includes antibodies directed toward SEQ ID NO:1 and SEQ ID NO:3 (claims 11, 31, 32, 34, 36-43, and 62-66).

Rejoinder

Applicants reiterate their request that claims 44 (IV) and 45 (VI), drawn to methods of using the antibodies, be rejoined per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of In re Ochiai, In re Brouwer and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products. Applicants request that claims 44 (IV) and 45 (VI) be rejoined and examined upon allowance of any of the claims drawn to the elected antibodies.

Written description rejections under 35 U.S.C. § 112, first paragraph

Claims 11, 31, 32, 34, 36-43, 65, and 66 have been rejected under the first paragraph of 35 U.S.C. 112 for alleged lack of an adequate written description. In order to expedite prosecution, claims 11 b), 65 b), and 66 b) have been amended as suggested by the Examiner to recite a "human" polypeptide and claim 11 d) has been amended to recite "an immunogenic fragment consisting of at least 15 contiguous amino acid residues of a polypeptide having an

amino acid sequence selected from the group consisting of SEQ ID NO:1 and SEQ ID NO:3." The Examiner has indicated that these amendments would obviate the rejection. Therefore, withdrawal of the written description rejection under 35 U.S.C. 112, first paragraph is respectfully requested.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 42 and 43 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In particular, the Examiner alleges that these claims are "incomplete" because of the omission of the essential steps of "how the antibody is produced through 'screening' a library" (Office Action, page 4). Applicants respectfully traverse the rejection.

Applicants have amended claims 42 and 43 to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Further, Applicants submit that the antibodies recited in claims 42 and 43 could be identified by screening a library as disclosed in the specification, for example, at page 25.

CONCLUSION

In light of the above remarks, Applicants submit that the present application is fully in condition for allowance and request that the Examiner withdraw the outstanding rejections. Early notice to that effect is earnestly solicited.

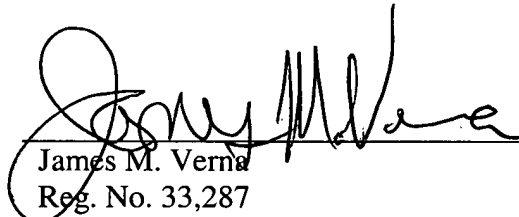
If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No. **09-0108**.

Respectfully submitted,
INCYTE CORPORATION

Date:

6 April 2004


James M. Verna
Reg. No. 33,287

Direct Dial Telephone: (650) 845-5415

Customer No.: 27904
3160 Porter Drive
Palo Alto, California 94304
Phone: (650) 855-0555
Fax: (650) 849-8886